

REMARKS

Claims 131-137 and 139-147 are pending in the application and stand rejected.

Amendments to the claims

Claims 131, 139, and 146 have been amended to recite that the decorative insert is “*entirely positioned below [the] top*” as disclosed, for example, in the drawings of the present application. No new matter has been added.

35 USC 102 rejections

1. In the Action, the Examiner rejects claims 131-134, 136, 137, 139-142, and 145-147 under 35 USC 102(b) as being anticipated by U.S. Pat. No. 901,333 to Fitzgerald. In section 8 of the Action, the Examiner “agrees that [Fitzgerald’s] insert does extend upward until it is flush with the top.” In this respect, Applicants submit that claims 131, 139, and 146 recite that the decorative insert is “*entirely positioned below [the] top*.” Therefore, Applicants submit that claims 131, 139, and 146 are not anticipated by Fitzgerald, together with claims 132-134, 136, 137, 140-142, and 147 which directly or indirectly depend on claims 131, 139, and 146.

With reference to claim 145, such claim recites “*a base member segmented into a plurality of segments, each segment having a hollow interior*.” (emphasis added). According to the Examiner, those features can be found in Fitzgerald’s Figure 9. However, although Applicants agree, in principle, with the fact that the base member of Figure 9 in Fitzgerald comprises a plurality of segments, Applicants disagree with the assertion that each segment in Fitzgerald has a hollow interior. In particular, elements 10 in Fitzgerald are studs which extend up from the upper surface of the block 7, as explained in lines 70-73 of Fitzgerald. Therefore, Applicants submit that claim 145 is not anticipated by Fitzgerald.

2. The Examiner is still rejecting claims 131-137 and 139-142 under 35 USC 102(b) as being anticipated by U.S. Pat. No. 5,289,700 to Cheng. Applicants respectfully disagree.

With reference to Cheng, the Examiner is still of the opinion that element 16 shown in Figures 2 and 3A-3C of Cheng is a decorative insert. In particular, the Examiner is of the opinion that the mere fact of being circular makes the insert decorative. Although Applicants agree, in principle, with this characterization of the Examiner, Applicants note that the embodiment in Cheng which is deemed to be anticipatory of claims 131-137 and 139-142 is the embodiment of Figures 3A-3C because only in that embodiment the element 16 can be properly said to be positioned entirely below the top of the base member 11. In other words, in Cheng's Figure 2, the element 16 is not "*entirely positioned below [the] top.*" Turning to the embodiment of Figures 3A-3C, the Examiner will appreciate that the user cannot notice the element 16 because such element is covered by the ornamentation 19. Therefore, the element 16 of the embodiment of Figures 3A-3C is not a "*decorative insert*" because it is not visible to the eye. Moreover, in the embodiment of Figures 3A-3C in Cheng, the base member 11 does not show "*a top with an opening therein leading to [a] hollow interior.*" Although a portion in 11 is hollow to allow movement of the element 16, there is no top opening leading to such hollow portion.

Therefore, Applicants submit that claims 131 and 139 are novel over Cheng, together with claims 132-137 and 140-142 which, directly or indirectly, depend from claims 131 and 139.

Allowable Claims

In the Action, the Examiner states that claims 143 and 144 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants agree with the Examiner regarding the allowability of claims 143 and 144. However, Applicants believe that the remaining claims are also allowable, as set forth above. As a consequence, the dependency of claims 143 and 144 from their base claim and intervening claims has been left unchanged.

In view of the above, Applicants submit that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

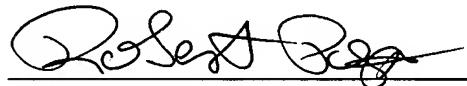
June 7, 2004
(Date of Transmission)

Susan Papp
(Name of Person Transmitting)

Susan Papp
(Signature)

06/09/04
(Date)

Respectfully submitted,



Robert Popa
Attorney for Applicants
Reg. No. 43,010
LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300 voice
(323) 934-0202 facsimile
rpopa@ladasperry.com